

AMENDED IN ASSEMBLY JUNE 13, 2002

AMENDED IN SENATE MAY 29, 2002

AMENDED IN SENATE APRIL 30, 2002

AMENDED IN SENATE APRIL 17, 2002

SENATE BILL

No. 1871

Introduced by Senator Monteith

@ @ @ @ (Principal coauthor: Assembly Member Cogdill)

February 22, 2002

An act to add Chapter 12 (commencing with Section 35290) to Part 4 of, and to add Chapter 2.1 (commencing with Section 35515) to Part 5 of, Division 13 of, the Water Code, relating to California water districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1871, as amended, Monteith. Root Creek Water District.

(1) Existing law, the California Water District Law, provides for the formation of California Water Districts and grants to those districts the authority to provide water and sewage services. That district law generally requires the members of the board of a California water district, and the voters of that district, to be landowners, but provides for the modification of these requirements by the board of that district.

This bill would *modify requirements relating to the composition of, and the manner of election of directors to, the board of the Root Creek Water District, which is a California water district, to reflect changes in land use within that district. The bill would apply there requirements to a district election that is held following a determination by the board*

relating to the amount of land in the district that is devoted to agricultural and nonagricultural uses, respectively.

The bill would require the secretary of the district, on or before February 1, 2003, and each year thereafter, to determine whether at least 10,000 persons who are eligible to vote in district elections reside within the district, and if so, to certify that determination to the board of directors. The bill would require the board, upon receiving that certification, to dissolve the two divisions and to conduct district elections under laws relating to resident voting districts, or to prepare and adopt a resolution initiating reorganization proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, for submission to the local agency formation commission of Madera County. The

The duties established by this bill for the district relating to the conduct of elections, the composition of the board, and the reorganization of the district would impose a state-mandated local program.

~~The bill would authorize the district to provide, generate, and deliver electric power, and to construct, operate, and maintain works, facilities, improvements, and property for that generation and delivery. The bill would require a district that elects to provide its own power to reimburse the Department of Water Resources and the electrical corporation that previously serviced the district for certain costs.~~

~~The bill would authorize the district to provide, generate, and deliver natural gas, and to construct, operate, and maintain works, facilities, improvements, and property for that generation and delivery.~~

The bill would grant to that district numerous new powers, including the authority to protect against fire, develop public recreation, construct street lighting, undertake mosquito abatement operations, operate a police department, and provide and maintain public airports, until the effective date of any reorganization of the district.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Root Creek Water District is a California water district formed October 1, 1996, to serve approximately 9,500 acres of land zoned as agricultural property in eastern Madera County.

(b) Every landowner within the district signed the formation petition. The local agency formation commission and the county board of supervisors unanimously provided all necessary approvals for the formation of the district. The formation of the district was approved by the unanimous vote of landowners in the September 17, 1996, formation election. The district formation was confirmed by the Madera County Board of Supervisors on October 1, 1996.

(c) The property within the district is not currently served by any other public utility, water district, or improvement district.

(d) The existing agricultural operations within the district are currently dependent on groundwater, as they have been since their establishment 30 or more years ago. The pumping level, volume, and quality of the groundwater are all declining. The primary purpose of the district is to enter into agreements with the Madera Irrigation District, the Chowchilla Water District, and the Friant Water Users Authority, and its member units, to allow the district to acquire water from the San Joaquin River and other sources to engage in intentional groundwater recharge. The district intends to implement conjunctive use of the groundwater basin underlying the district to provide reliable water supplies for the existing agricultural and anticipated municipal and industrial water users within the district.

(e) On December 30, 1999, the district entered into an agreement entitled “Agreement Concerning Agricultural, Municipal and Industrial Water Use Within Root Creek Water District” with the Friant Water Users Authority, the Madera Irrigation District, and the Chowchilla Water District to facilitate the district’s ability to provide water to all users within the district and to correct the existing groundwater overdraft within the district.

(f) To efficiently and economically fulfill the purposes of the district, and to better serve the landowners of the district and its

1 future residents as the municipal and industrial projects approved
2 within the district advance, it is necessary and appropriate for the
3 district to have certain powers that are granted to other public
4 entities in the state. As the district transitions from an agricultural
5 district to an urban district, it is also necessary and appropriate to
6 modify procedures relating to district elections and the
7 composition of the board of the district.

8 SEC. 2. Chapter 12 (commencing with Section 35290) is
9 added to Part 4 of Division 13 of the Water Code, to read:

10
11 CHAPTER 12. METHODS OF GOVERNANCE FOR ROOT CREEK
12 WATER DISTRICT
13

14 35290. This chapter applies only to the Root Creek Water
15 District. For the purposes of this chapter, “district” means the
16 Root Creek Water District.

17 ~~35290.2. (a) On or before February 1, 2003, and each year~~
18 ~~thereafter, the secretary of the district shall determine whether at~~
19 ~~least 1,000 persons reside within the district.~~

20 ~~(b) If the secretary determines that at least 1,000 persons reside~~
21 ~~within the district, the secretary shall certify that fact to the board~~
22 ~~of directors.~~

23 ~~(c) Upon receiving that certification, the board of directors~~
24 35290.2. (a) Notwithstanding any other provision of this
25 division, but subject to Section 35290.6, this section applies for the
26 district elections following a determination by the board that at
27 least 200 acres, but less than 1000 acres, of the land area of the
28 district is devoted to a combination of residential, industrial, and
29 nonagricultural commercial uses.

30 (b) (1) The board of directors, by resolution, shall establish
31 two divisions within the district.

32 (2) One division shall be comprised of that portion of the
33 district that is primarily devoted to agricultural uses, and shall be
34 referred to as the agricultural division. The other division shall be
35 comprised of that portion of the district that is primarily devoted
36 to residential, industrial, and nonagricultural commercial uses,
37 and shall be referred to as the urban division. Thereafter, the board
38 of directors shall modify annually the boundaries of the urban
39 division to include any additional urbanized area in the district.

1 (c) The board shall consist of seven directors. The voters in the
2 urban division shall elect two directors and the voters in the
3 agricultural division shall elect five directors.

4 (d) In the urban division, the directors shall be residents of the
5 division and shall be registered voters at the time of their election
6 and during their term of office. All elections in that division shall
7 be conducted in accordance with Section 35054.

8 (e) (1) In the agricultural division, the directors shall be one
9 of the following:

10 (A) A holder of title to land within the division.

11 (B) The legal representative of a holder of title to land within
12 the division in accordance with Section 34030.

13 (C) A representative designated by a holder of title to land
14 within the district, if the holder has filed with the district evidence
15 of that designation.

16 (2) All elections in the agricultural division shall be conducted
17 in accordance with Article 1 (commencing with Section 35003) of
18 Chapter 1.

19 35290.4. (a) Notwithstanding any other provision of this
20 division, but subject to Section 35290.6, this section applies for the
21 district elections following a determination by the board that at
22 least 1000 acres of the land area of the district is devoted to a
23 combination of residential, industrial, and nonagricultural
24 commercial uses.

25 (b) The board of directors, by resolution, shall modify the
26 boundaries of the divisions to meet the requirements of paragraph
27 (2) of subdivision (b) of Section 35290.2.

28 (c) The board shall consist of seven directors. The voters in the
29 urban division shall elect three directors and the voters in the
30 agricultural division shall elect four directors in accordance with
31 the requirements applicable to each respective division, as set forth
32 in Section 35290.2.

33 35290.6. (a) Notwithstanding any other provision of this
34 division, on or before February 1, 2003, and each year thereafter,
35 the secretary of the district shall determine whether at least 10,000
36 persons who are eligible to vote in district elections reside within
37 the district.

38 (b) If the secretary determines that at least 10,000 persons who
39 are eligible to vote in district elections reside within the district, the
40 secretary shall certify that fact to the board of directors.

1 (c) Upon receiving that certification, and subject to subdivision
2 (d), the board of directors, by resolution, shall dissolve the two
3 divisions established pursuant to this chapter. The directors shall
4 be elected and the elections shall be conducted in accordance with
5 subdivision (d) of Section 35290.2.

6 (d) Alternatively, upon receiving that certification, the board of
7 directors shall promptly prepare and adopt a resolution initiating
8 proceedings pursuant to the Cortese-Knox-Hertzberg Local
9 Government Reorganization Act of 2000 (Part 1 (commencing
10 with Section 56000) of Division 3 of Title 5 of the Government
11 Code). The resolution shall propose one of the following:

12 (1) A reorganization that consists of the detachment of
13 inhabited territory from the district and the formation of a
14 community services district that includes not less than that affected
15 territory.

16 (2) A reorganization that consists of the dissolution of the
17 district and the formation of a community services district that
18 includes the affected territory.

19 (d) The district shall file its resolution initiating proceedings
20 with the local agency formation commission of Madera County.
21 The district may support and shall not oppose the commission's
22 approval of the proposed reorganization.

23 ~~35290.4.—~~

24 35290.8. (a) This chapter does not invalidate any act of the
25 district, its directors, or its officers and employees made or
26 performed while the district was operating as a landowner voter
27 district.

28 (b) This chapter does not affect any act or proceeding
29 undertaken for the authorization, issuance, or sale of any bonds of
30 the district in any manner provided by law prior to the date on
31 which the board of directors adopts its resolution initiating
32 proceedings for a reorganization pursuant to this chapter.

33 35290.10. *To the extent that the requirements of this chapter,*
34 *including requirements relative to the establishment or dissolution*
35 *of divisions or the qualifications of the directors, affect the terms*
36 *of the directors, those terms shall be modified, by resolution, by the*
37 *board.*

38 SEC. 3. Chapter 2.1 (commencing with Section 35515) is
39 added to Part 5 of Division 13 of the Water Code, to read:

40

CHAPTER 2.1. PROVISIONS PERTAINING ONLY TO THE ROOT
CREEK WATER DISTRICT

35515. This chapter applies only to the Root Creek Water District. For the purposes of this chapter, “district” means the Root Creek Water District.

~~35515.2. (a) The district may provide, generate, and deliver electric power, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portion thereof, necessary or convenient for that generation and delivery.~~

~~(b) The electric powerplant or plants and transmission lines constructed pursuant to this chapter may be leased for operation, or the power generated may be used, by the district for its own purposes or be sold to any public or private entity that is engaged in the distribution or sale of electricity.~~

~~(c) Nothing in this section grants to the district the authority to provide, sell, or deliver electric power at retail.~~

~~(d) A district may not acquire property employed in the generation or delivery of electric power for public or private utility purposes, except by mutual agreement between the district and the owner of that property.~~

~~(e) A district that elects to provide for its own power pursuant to this section shall reimburse the department for all of the following:~~

~~(1) The department’s unrecovered actual cost of power procurement, including any financing and administrative costs, attributable to the district, as determined by the Public Utilities Commission. The department’s actual cost shall be calculated as the difference, if any, between the department’s total actual procurement costs attributable to the district and the revenues collected by the department from the district during the district’s term of service with the department. The Public Utilities Commission shall publish, and update as necessary, a formula for calculation of unrecovered costs that are due pursuant to this subdivision.~~

~~(2) Any additional costs of the department, equal to the district’s proportionate share of the department’s estimated net unavoidable power purchase contract costs, for the period commencing with the district’s self-provision of electricity, through the expiration of all power purchase contracts entered into~~

~~by the department existing on the date the district commenced self-provision of electricity. The proportionate share and unavoidable costs shall be determined by the Public Utilities Commission.~~

~~(f) A district that elects to provide for its own power pursuant to this section shall reimburse the electrical corporation that previously served the district for all of the following:~~

~~(1) The electrical corporation's unrecovered actual cost of power procurement, including any financing and administrative costs, attributable to the district, as determined by the Public Utilities Commission. The electrical corporation's actual cost shall be calculated as the difference, if any, between its total actual procurement costs attributable to the district and the revenues collected by the electrical corporation from the district during the district's term of service with the electrical corporation.~~

~~(2) Any additional costs of the electrical corporation, equal to the district's proportionate share of the electrical corporation's estimated net unavoidable power purchase contract costs, for the period commencing with the district's self-provision of electricity, through the expiration of all power purchase contracts entered into by the electrical corporation existing on the date the district commenced self-provision of electricity. The proportionate share and unavoidable costs shall be determined by the Public Utilities Commission.~~

~~35515.4.—(a) The district may provide, generate, and deliver natural gas, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portion thereof, necessary or convenient for that generation and delivery.~~

~~(b) The natural gas plant or plants and transmission lines constructed pursuant to this chapter may be leased for operation, or the power generated may be used, by the district for its own purposes or be sold to any public or private entity that is engaged in the distribution or sale of natural gas.~~

~~(c) Nothing in this section grants to the district the authority to provide, sell, or deliver natural gas at retail.~~

~~(d) A district may not acquire property employed in the generation or delivery of natural gas for public or private utility purposes, except by mutual agreement between the district and the owner of that property.~~

1 ~~35515.6.— (a) The district may construct and operate electrical~~
2 ~~lines and natural gas lines along, over, under, or upon any road or~~
3 ~~across any railway or conduit that the route of the lines intersects~~
4 ~~or runs along.~~

5 ~~(b) The district may not construct and operate electrical lines~~
6 ~~and natural gas lines along, over, under, or upon any road or~~
7 ~~conduit with any county, city, or other special district unless~~
8 ~~permission to do so is granted by the governing body of the county,~~
9 ~~city, or special district, which in so doing may impose reasonable~~
10 ~~conditions upon the proposed use.~~

11 ~~(c) If the district constructs lines pursuant to this chapter, the~~
12 ~~district shall restore the road, railway, or conduit intersected to its~~
13 ~~former state of usefulness to the maximum extent possible.~~

14 ~~35515.8.— (a) The district may not exercise any of the powers~~
15 ~~granted by this chapter within the County of Merced, Madera, or~~
16 ~~Fresno without the consent of the affected county or any water or~~
17 ~~power agency whose sphere of influence may be affected.~~

18 ~~(b) Any electric power facilities constructed by the district that~~
19 ~~require water shall be designed to utilize treated effluent, and the~~
20 ~~district shall determine that the power facilities will not reduce the~~
21 ~~supplies of water for water users of the district or other water users~~
22 ~~in the counties identified in subdivision (a).~~

23 ~~35515.9.—~~

24 ~~35515.2. (a) The district may construct facilities or take~~
25 ~~action for the following purposes:~~

26 ~~(1) As described in subdivisions (a) to (k), inclusive, and~~
27 ~~subdivisions (m) to (p), inclusive, of Section 61600 of the~~
28 ~~Government Code.~~

29 ~~(2) As described in Section 16461, 16462, or 16463 of the~~
30 ~~Public Utilities Code.~~

31 ~~(b) The district may not exercise the powers granted by~~
32 ~~paragraph (1) of subdivision (a) on or after the effective date of any~~
33 ~~reorganization described in Section 35290.2 subdivision (d) of~~
34 ~~Section 35290.6.~~

35 SEC. 4. The Legislature finds and declares that this act, which
36 is applicable only to the Root Creek Water District, is necessary
37 because of the unique and special circumstances of that district
38 relating to population and land use changes. It is, therefore, hereby
39 declared that a general law within the meaning of Section 16 of
40 Article IV of the California Constitution cannot be made

1 applicable to the district and the enactment of this special law is
2 necessary for the operation of the district for the public good.
3 SEC. 5. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district are the result of a program for which legislative authority
7 was requested by that local agency or school district, within the
8 meaning of Section 17556 of the Government Code and Section
9 6 of Article XIII B of the California Constitution.

